

NOV 21 2005

BEFORE THE FEDERAL ELECTION COMMISSION

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SECRETARIAT

In the Matter of:

2005 NOV 21 P 3: 16

Tab Turner

Turner & Associates

Brenda Gwin, Michelle Abu-Halimeh,
Amy Parker, Diana Harcourt, and Jennifer
Keylon

Neal and Elizabeth Turner

Edwards for President and Julius
Chambers, in his official capacity as
treasurer

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GENERAL COUNSEL'S REPORT #4

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I. ACTIONS RECOMMENDED

admonish but

take no further action as to Brenda Gwin, Michelle Abu-Halimeh, Amy Parker, Diana Harcourt,
Jennifer Keylon, Neal Turner, and Elizabeth Turner.

II. INTRODUCTION

Tab Turner is a nationally renowned trial attorney based in Little Rock, Arkansas, who
specializes in representing plaintiffs in automobile defect cases. In mid-2003, the Commission
received a complaint alleging that Turner reimbursed paralegals at his law firm, Turner &
Associates, for contributions they made to Edwards for President ("the Edwards Committee").

On April 14, 2004, the Commission found reason to believe that Tab Turner and Turner
& Associates knowingly and willfully violated the Act by using corporate funds to reimburse
four employees for their contributions to the Edwards Committee. The Commission also found
reason to believe that the employees violated the Act by allowing their names to be used to make
a contribution in the name of another. See Factual and Legal Analyses, attached to First General
Counsel's Report dated April 8, 2004. The Commission also found reason to believe that (1)
Tab Turner's assistant, Brenda Gwin, assisted in making contributions in the name of another;
(2) Tab Turner's brother and sister-in-law allowed their names to be used to make a contribution

in the name of another; and (3) that the Edwards Committee violated the Act by receiving prohibited corporate in-kind contributions from Turner & Associates and by accepting a contribution made in the name of another.¹ See Factual and Legal Analyses, attached to General Counsel's Report #2 dated October 20, 2004.

All

respondents have cooperated with the investigation: Tab Turner voluntarily submitted to a comprehensive interview; Turner & Associates produced requested documents; and the Edwards Committee responded fully to the Commission's subpoena. As detailed below, the investigation has shown that Tab Turner reimbursed four \$2,000 contributions (totaling \$8,000) to the Edwards Committee and also paid for an additional \$2,000 contribution to the Edwards Committee that was made in his brother and sister-in-law's name. In addition, the investigation has shown that Turner & Associates made prohibited in-kind contributions to the Edwards Committee by paying for hotel and car expenses of campaign staffers and by providing firm staff to perform services for the campaign. The Edwards Committee knowingly accepted these prohibited in-kind contributions as well as a single \$2,000 contribution made in the name of Turner's brother.

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6 **III. SUMMARY OF INVESTIGATION**

7 **A. Tab Turner's Background**

8 In 1995, Tab Turner established Turner & Associates, a law firm incorporated in
9 Arkansas that specializes in litigating class action automobile defect cases.

10
11 Turner & Associates is a small, close-knit firm, employing
12 approximately ten other individuals, only one of whom is an attorney besides Turner.

13 From 1995 until May 2003, Brenda Gwin served as the office manager and was
14 second in command at the firm, under Turner. Gwin, who has nearly
15 twenty years of experience as a legal assistant, supervised the staff, performed secretarial work,
16 scheduled depositions, and dealt with clients.

17 In addition to operating the law firm, Gwin and the other employees also handled
18 Turner's personal obligations, from childcare to dry-cleaning to paying his bills.

19 The law firm's accountant, Jennifer Burchfield, explained that the
20 firm's standard practice was to pay for all of Turner's personal expenses, which for tax purposes
21 were treated as income to him at the end of the year.

22 Both Turner's personal and firm expenses were paid out
23 of the same firm bank accounts, as Turner did not maintain a personal checking account.

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Burchfield used the firm's accounting software to categorize expenses as either firm-related or personal. Included among the personal expenses that the firm paid for were political contributions that Turner made.

Tab Turner did not begin to make significant political contributions until 2001, after he became friends with Jennifer Kinder, an attorney who worked as a fundraiser for the Democratic National Committee.

Shortly after Turner met Kinder, he agreed to host a DNC fundraising dinner in Washington, D.C. As a host, Turner assisted Kinder with the invitation list and also personally invited attorneys to the dinner, which coincided with a convention for the American Trial Lawyers Association ("ATLA").

Senator Edwards and other officials attended the event, and Turner donated \$10,000 to the DNC.

In 2002, Turner hosted two other fundraising events, one to benefit Ron Kirk a candidate for the U.S. Senate from Texas, and the other to benefit Mark Pryor a candidate for the U.S. Senate from Arkansas. Turner does not remember his exact roles in hosting these events, though e-mails reflect that he assisted with the invitation list and communicated regularly with the campaign about raising funds.

E-mails from the Pryor campaign to Turner contained a disclaimer stating that "corporate checks cannot be accepted" and that the "maximum contribution allowed is \$1,000 for individuals," though Turner does not remember if he read these disclaimers.

For the Kirk event, Brenda Gwin assisted Turner with planning logistics, soliciting

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1 potential contributors, and communicating with the campaign, all of which she said were part of
2 her job duties for Turner.

3 Turner also attended various other federal and state fundraising events in 2002, such as a
4 dinner in Miami to honor then-DNC chairman Terrance McAuliffe and an event sponsored by
5 the Alabama Federation of Democratic Women. Turner also provided
6 suggestions to the DNC on whom should be solicited for funds, and Turner also personally called
7 acquaintances to urge them to donate to the DNC.

8 In 2002, Turner himself contributed over \$75,000 in federal and nonfederal
9 funds to various political candidates and organizations.

10 Turner, through his political activities, learned that the law placed limits on the amount of
11 individual contributions to federal candidates. Nonetheless, Turner asserts

12 that he did not realize that federal law prohibited someone from reimbursing family or friends for
13 their contributions. Turner also knew that the law differentiated between

14 hard and soft money, though he states that he did not know what that difference was, and he
15 maintains that nobody ever told him the specifics of campaign finance law.

16 Jennifer Kinder states that although she gave Turner general advice on political giving, including
17 informing him of BCRA's prohibition on soft money donations and increased contribution

18 limits, she does not specifically remember ever telling him that the law prohibited reimbursed
19 contributions. Another former DNC fundraiser, Franklin Hall, likewise

20 states that although his standard practice was to inform potential donors such as Turner of how to
21 permissibly raise funds, he does not remember any specific conversations with Turner about the
22 prohibition on contributions made in the name of another.

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B. Tab Turner's Fundraising for Senator Edwards

Tab Turner first met and became friends with John Edwards through the American Trial Lawyers Association when Edwards was a fellow trial attorney. In the fall of 2001, Edwards contacted Turner to ask for financial support in a potential presidential campaign.

Turner committed to raise between \$250,000 and \$500,000 for Edwards.

In January 2003, Jennifer Kinder asked Turner if he would host a fundraising event in Arkansas for Senator Edwards. By this point in time, Kinder had left her position at the DNC to work as a fundraising consultant to the Edwards Committee.

Turner agreed to hold two fundraising receptions in Arkansas, which were to be held on the evening of February 22, 2003.

1. Planning the Arkansas Fundraisers

Planning for the fundraisers began in early February 2003. Turner first contacted five of his friends and colleagues, asking them to be "team captains" and requesting that they find 20 other individuals willing to raise \$8,000 each, for a total of \$200,000.

Turner also directed Brenda Gwin to contact certain others and ask them to raise \$10,000 each. Gwin regularly updated Turner on the progress of the solicitations, sometimes e-mailing him two or three times per day. Gwin also created numerous Excel charts, which tracked contributions and pledges. Gwin communicated frequently with the Edwards Committee, often multiple times per day via e-mail.

As the fundraising events neared, Gwin devoted more and more of her working hours planning the event, spending fifty hours during the week prior to the events. Other firm employees assisted Gwin with planning the fundraising events and collecting contributions,

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1 though the time they spent was much more limited. ---

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3 In an e-mail, Turner instructed that potential donors be told that the "[l]aw limits us to
4 2,000 per person." Turner, however, claims that he cut and pasted that language from
5 another e-mail and did not write it himself. Gwin relayed the information
6 about contribution limits to potential contributors, stating in one e-mail that "donors are limited
7 to \$2,000 per person," and explaining that a husband and wife may give \$4,000 only if they both
8 sign the check.

9 In addition to soliciting contributions, Turner directed his firm staff to make hotel and car
10 reservations for two employees of the Edwards Committee that were arriving prior to the
11 fundraising events. Turner e-mailed these two employees, Jennifer Kinder and
12 Franklin Hall, to inform them that hotel reservations had been made for them and that office
13 space had been reserved for when they came to town. Usually, travel arrangements for
14 employees of the Edwards Committee were made by the events director for the campaign, Nicole
15 Mizirl-Morrell. Morrell did not specifically remember whether she arranged
16 travel for the Arkansas fundraisers, but said that she was unaware of any instance where a
17 fundraising host paid for travel expenses of campaign staff. Here, however,
18 expenses for both the hotel and rental car, totaling \$2,357.88, were paid using a credit card billed
19 to Turner's law firm.²

20 Kinder arrived in Arkansas approximately five days before the fundraisers to finalize the
21 logistics and solicit additional contributions. Kinder was "stressed"

² Both Kinder and Hall stated that they did not realize that Turner actually paid for the hotel room and rental car. Although Kinder later submitted receipts to the campaign for reimbursement from the Arkansas trip, those expenses did not include hotel or car rental charges. The Edwards Committee eventually reimbursed Tab Turner for these expenses on July 22, 2003.

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1 about the slow pace of money being raised for the Arkansas events, and she "put a bit more
2 pressure on [Turner] to make a few more phone calls" to raise money.
3 Turner, too, was frustrated with the time he was spending on the events, especially because he
4 was out of town in trial during the week prior to the fundraising events.

5 2. *The Paralegals' Contributions*

6 On the day before the fundraising events, Turner received a phone call from
7 representatives of the Edwards Committee, who requested his presence at the campaign's
8 makeshift office at a local law firm in Little Rock. After Turner arrived,
9 campaign officials expressed concern to Turner about how little money had been raised for the
10 events, and they asked him to immediately make additional phone calls to solicit funds.

11 Jennifer Kinder also reminded Turner that she needed to obtain the \$8,000 he agreed
12 to raise personally. Either Kinder or another campaign staffer suggested
13 that Turner solicit his employees to contribute.

14 Turner decided that he would solicit his employees and reimburse them for their
15 contributions, though he did not share his plan with anyone at the campaign.
16 Turner also states that he did not then realize that the law prohibited someone from reimbursing
17 federal campaign contributions. From the campaign office, Turner

18 telephoned Brenda Gwin at approximately 5:00pm and asked her to solicit four employees to
19 contribute \$2,000 to the Edwards Committee. Gwin
20 immediately told Turner that the employees could not afford \$2,000 contributions, but Turner
21 said he would "take care of it."

22 Gwin then walked around the law firm, telling employees that Turner needed four
23 volunteers to contribute and that they would be reimbursed. Four paralegals

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1 agreed to write checks, though some cautioned Gwin that they did not have \$2,000 in their
2 checking accounts. Each paralegal said that
3 she would not have contributed to the Edwards Committee but for the promise of reimbursement.
4 None was aware, however, that the law prohibited someone from being
5 reimbursed for a contribution.

6 Gwin collected the checks from the paralegals and later filled out donor cards provided
7 by the Edwards Committee for each of them. Although these donor cards
8 explicitly state that "all contributions must be made from personal funds and cannot be
9 reimbursed," Gwin says that she did not read this disclaimer and did not know that the law
10 prohibited reimbursed contributions. Gwin personally delivered the
11 contribution checks and the donor cards to Jennifer Kinder.

12 Gwin also asked the firm's accountant, Jennifer Burchfield, to write reimbursement checks
13 to the paralegals, which were issued the following Monday morning.

14
15 3. *Neal and Elizabeth Turner's Contribution*

16 In addition to asking his employees to contribute, Tab Turner also contacted his brother,
17 Neal Turner, and invited him and his wife to attend the fundraising event.

18 Tab and Neal did not discuss a
19 contribution when Tab invited him, though Neal assumed that a contribution would be requested.

20 Tab informed Jennifer Kinder that both he and his brother would be
21 contributing, and the night of the fundraising events Kinder prepared donor cards for both Tab
22 and Neal. While Kinder filled out most of the information on
23 the donor cards prior to the event, she left the credit card information on the donor cards blank,

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1 as she did not know the credit card numbers that would be used for the contributions.

2
3 At the fundraising event that night in Benton, Arkansas, Kinder reminded Tab that she
4 needed both his and his brother's contribution. Tab handed her his
5 credit card, and Kinder proceeded to fill in Tab's credit card number on his donor card.

6 Tab then signed the donor card. Tab also agreed to
7 cover Neal and Elizabeth's contribution. Both Tab and Neal and Elizabeth's
8 contributions were charged to Tab's credit card, the bill for which was paid by Tab's law firm
9 and noted as a personal expense in the firm's accounting records.³ According to
10 Brenda Gwin, who was at the event, Jennifer Kinder used Tab's credit card to fill out the donor
11 card for Neal and Elizabeth. Neal and Elizabeth's donor card does indeed list
12 the same credit card number as on Tab's donor card, but Kinder denies that she used Tab's credit
13 card for Neal and Elizabeth's contribution. Rather, Kinder states that

14 the handwriting of the credit card information on Neal and Elizabeth's donor card is not hers.

15 It is unknown who exactly filled in Tab's credit card number on Neal
16 and Elizabeth's donor card.

17 4. *Events Occurring After the Fundraising Events*

18 Immediately after the fundraising events concluded that evening in Little Rock, Senator
19 Edwards, his campaign staff, and Tab Turner flew to Oklahoma using Turner's private jet.

20 The Edwards Committee paid Turner's firm for use of the plane prior to the flight but later
21 requested a partial reimbursement after inclement weather cancelled one of the scheduled stops.

³ After the event, Tab contacted Neal to collect the \$2,000 that he advanced for the contribution to the Edwards Committee. Instead of Neal repaying Tab, the two agreed that the payment would be applied to the price of a boat that Tab had previously agreed to buy from Neal.

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1 During the two months following the Arkansas fundraising events, staff of the
2 Edwards Committee regularly interacted with Turner and Brenda Gwin to collect the large
3 number of outstanding contributions. Gwin regularly
4 spent part of her normal working hours following up with donors and the campaign, as well as
5 updating Excel charts that detailed the amount of money received.

6 Kinder also repeatedly contacted Turner to put more pressure on him to personally follow
7 up on collecting contributions, telling him not to delegate the task to Gwin.

8 In sum, the Edwards Committee eventually received \$73,000 in contributions
9 that were derived from the Arkansas events.

10
11 On the morning of April 17, 2003, a reporter from the Washington Post called two of the
12 paralegals at Turner's firm who had contributed to the Edwards Committee. In
13 response to the reporter's questions, one of the paralegals told him that Turner had reimbursed
14 them for their contributions. The paralegals then alerted Brenda Gwin to the telephone
15 calls, who contacted Turner. According to Gwin, Turner did not seem concerned and
16 told her, "Don't worry about it."

17 Turner, after speaking with Gwin, immediately contacted Jennifer Kinder and an attorney
18 with ties to the Edwards Committee. Turner said he learned from speaking
19 with the attorney that the law prohibited reimbursing campaign contributions.
20 When Turner informed Jennifer Kinder of the situation, she became very upset, demanding an
21 explanation as to how he could not have known that he could not reimburse campaign
22 contributions. Turner repeatedly apologized to her, saying he did not know
23 the law prohibited reimbursing contributions and that he would publicly admit that he "made a

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1 -- mistake." After the conversation ended, Kinder immediately informed
2 others at the Edwards Committee, which issued refund checks to Tab Turner and the paralegals
3 that same day.⁴

4 After speaking with Kinder, Turner telephoned Brenda Gwin and told her, "Well, we may
5 have a problem."

Turner also phoned the firm's accountant, Jennifer
6 Burchfield, and informed her that he learned that reimbursing contributions may be illegal.

7 According to Burchfield, Turner sounded "confused" and "shocked"

8 during the conversation. Turner told Burchfield that the paralegals who
9 contributed would need to reimburse the firm for their \$2,000 contributions, and Burchfield then
10 requested checks from the paralegals. Turner then sent an e-mail

11 to the reporter from the *Washington Post*, stating, "[the paralegal] is not going to be reimbursed.
12 She apparently cannot be reimbursed under some rule relating to campaign finance."

13 Finally, late in the afternoon that day, Turner sent an e-mail to his staff, stating that the Federal
14 Election Commission would be investigating the contributions, that he intends to cooperate with
15 the investigation, and that the situation was his fault.⁵

16 IV. DISCUSSION

17 The investigation has uncovered three distinct violations of the Act. First, Turner's
18 reimbursement of his employees' contributions violated the Act's prohibition on contributions

⁴ The Edwards Committee refunded Neal Turner's contribution on July 24, 2003.

⁵ In the months that followed, Turner and Jennifer Kinder remained in contact, mostly through e-mail.

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made in the name of another. *See* 2 U.S.C. § 441f. Second, Turner's payment of his brother's contribution similarly violated the Act's prohibition on contributions made in the name of another. *See id.* Finally, the law firm's payment of travel expenses and in-kind assistance to the Edwards Committee violated the Act's prohibition on corporate contributions. *See* 2 U.S.C. § 441b. Each of these violations is discussed below.

A. Turner's Reimbursement of his Employees' Contributions

Tab Turner has acknowledged that he reimbursed his employees' contributions to the Edwards Committee. Likewise, his employees have acknowledged that they allowed their names to be used to make a contribution in the name of another and, in Brenda Gwin's case, assisted in making a contribution in the name of another. Thus, there is no dispute that these parties violated 2 U.S.C. § 441f. Additionally, although the reimbursements were recorded as personal expenses in the firm's accounting records, they were still paid out of the firm's general treasury. Thus, because the reimbursements were made using corporate funds, Turner & Associates also violated the Act's prohibition on corporate contributions. *See* 2 U.S.C. § 441b. The only questions that remain are 1) whether any of the violations were knowing and willful, and 2) when the Edwards Committee first learned that it may have accepted reimbursed contributions. Each respondent's liability is discussed in the following sections.

I. *Tab Turner*

While Tab Turner does not dispute that he violated the Act by reimbursing his employees' contributions to the Edwards Committee, he contends that the violation was inadvertent. Turner asserts that he did not realize that the law prohibited someone from reimbursing federal campaign contributions, and he states that he never would have offered to reimburse the contributions if he had known so. Turner admits, however, that he knew that the law placed limits on the amount of contributions, though claims that he

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1 understood those limits to be per check, not person. Turner also explained
2 that he felt compelled to do everything he could to ensure that he fulfilled his fundraising goals,
3 lest he disappoint two of his friends, John Edwards and Jennifer Kinder.

4 Notwithstanding Turner's justification for his actions, the evidence demonstrates that his
5 conduct was knowing and willful. Under the Act, actions are "knowing and willful" if they are
6 "taken with full knowledge of all of the facts and a recognition that the action is prohibited by
7 law." 122 Cong. Rec. H3778 (daily ed. May 3, 1976). This standard requires knowledge that
8 one is violating the law. *Federal Election Commission v. John A. Dramesi for Congress*
9 *Committee*, 640 F. Supp. 985, 987 (D. N.J. 1986).

10 Here, Turner's prior fundraising experience, his education, and his background all
11 demonstrate that he knew that the law placed limits on individual contributions and willfully
12 attempted to circumvent those limits by reimbursing contributions. Most tellingly, Turner signed
13 the Edwards Committee's donor card, which explicitly stated that contributions may not be
14 reimbursed. Turner, however, claims that he never read this admonition, and asserts

15 that nobody from the campaign ever told him that he was not allowed to reimburse contributions.

16 Jennifer Kinder confirms that she never specifically informed Turner that
17 the law prohibited an individual from reimbursing contributions; however, when she was asked
18 why not, she responded, "I thought that he knew."

19 Turner's knowledge of the law can also be seen through his prior fundraising experience.
20 Before hosting the Arkansas fundraisers for Senator Edwards, Turner had already hosted at least
21 three other political fundraising events and donated over \$75,000 to various campaigns and
22 committees. Through these experiences, Turner was repeatedly informed about the Act's
23 contribution limits. Turner also often turned to

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1 Jennifer Kinder for advice on fundraising.

2 Furthermore, when planning the Arkansas fundraisers, one of Turner's first actions was to
3 instruct his staff to inform potential contributors that the "law limits us to \$2,000 per person."

4 Even after the fundraisers occurred, when Kinder wrote Turner to tell him, "one person
5 can't write a check for 2.5 [thousand]," Turner responded, "Brenda called to make sure he
6 understood the cap was 2000 per person."

7 Overall, therefore, the evidence
8 demonstrates that Turner knew that the law limited individual contributions to federal candidates
9 to \$2,000 per person. Accordingly, by reimbursing his employees for their contributions to the
10 Edwards Committee, Turner willfully attempted to circumvent the Act's limits.

11 2. *The Edwards Committee*

12 In general, the Edwards Committee undertook several measures to ensure that it did not
13 accept contributions made in the name of another. First, the Edwards Committee trained all of
14 its fundraisers on campaign finance law, including the prohibition on reimbursed contributions.
15 According to the Edwards Committee's national finance chair, "That's a red flag [reimbursed
16 contributions], black and white issue. I'm sure it was discussed [during training]."

17 Likewise, Jennifer Kinder
18 stated, "It was very important to the Campaign for me to be a person that went out all over the
19 country and informed people you can't reimburse."

20 In addition, the
21 Edwards Committee sent informational packets to all individuals who agreed to host a
22 fundraiser, which cautioned that the law prohibited reimbursed contributions.

23 Finally, the Edwards Committee's donor card explicitly stated, "All contributions must be
24 made from personal funds and may not be reimbursed by any other person."

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1 Although the investigation showed that the Edwards Committee repeatedly pressured
2 Turner to solicit contributions, there is no evidence that the Edwards Committee actually
3 encouraged Turner to reimburse contributions or knew that Turner promised to reimburse his
4 employees for their contributions. Rather, the Edwards Committee does not appear to have
5 learned that the contributions were illegal until April 17, 2003, when Turner informed Kinder.
6 Because the Edwards Committee refunded the suspect contributions that same day, it complied
7 with the Commission's regulations regarding refunding contributions made in the name of
8 another. *See* 11 C.F.R. § 103.3(b)(2).

9 3. *Law Firm Employees*

10 The paralegals who were reimbursed for their contributions to the Edwards Committee
11 have all acknowledged that they violated the Act, though they all contend that they did not
12 realize that the law prohibited them from being reimbursed at the time they contributed. Overall,
13 the investigation has confirmed their accounts. The paralegals, all in their 20s at the time they
14 were reimbursed, had never given money to a candidate before contributing to the Edwards
15 Committee. In addition, the paralegals were never asked to sign or
16 review donor cards before contributing to the Edwards Committee.
17 Finally, the paralegals' candid responses to the *Washington Post* about being reimbursed
18 likewise demonstrate that they were not aware of the Act's prohibitions on contributions made in
19 the name of another.

20 As for Brenda Gwin, although she did not contribute herself, she could still face liability
21 for assisting in the making of a contribution in the name of another. *See* 11 C.F.R.
22 § 110.4(b)(iii). For example, Gwin solicited the paralegals to contribute, and she later filled out
23 their donor cards and instructed the firm's accountant to issue reimbursement checks. Although

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1 Gwin does not dispute that she violated the Act; she asserts that she did not realize that the law
2 prohibited reimbursed contributions. Nonetheless, Gwin admits that she generally knew that the
3 law placed limits on the amounts of contributions to federal candidates, and she also played a
4 larger role than the paralegals assisting Turner with this and past fundraising events.

5 While these factors may support pursuing Gwin, it is also important to note that at all
6 times she appears to have been acting as a subordinate to and an agent of Tab Turner.

7 After considering all the circumstances, this Office believes an admonishment letter
8 would most appropriately resolve this matter as it pertains to all firm employees,

9 First, although it is a much closer call for
10 Brenda Gwin as compared to the paralegals, the violations do not appear to have been knowing
11 and willful. Second, neither Gwin nor the employees devised the reimbursement scheme; Turner
12 did, and he has offered to take full responsibility for his actions. Third, all of the employees
13 have stated that they assisted with or made contributions to the Edwards Committee at the
14 direction of Turner—their boss. Fourth, their violations were limited to
15 this one particular instance. Finally, they have all cooperated fully with the investigation.
16 Therefore, this Office recommends that the Commission take no further action other than issuing
17 a letter of admonishment as to Brenda Gwin, Michelle Abu-Halimeh, Amy Parker, Diana
18 Harcourt, and Jennifer Keylon, and close the file as it pertains to them.

19 **B. Turner's Payment of His Brother's Contribution**

20 There is no dispute that Tab Turner's credit card was used to pay for his brother and
21 sister-in-law's contributions to the Edwards Committee. Tab and his brother Neal assert,
22 however, that at the time the contribution was made, Tab owed Neal \$2,600 for a boat that Tab
23 had agreed to purchase months earlier. Accordingly, Tab and Neal contend that Tab's payment

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1 of Neal's contribution to the Edwards Committee satisfied part of a debt. Even assuming that
2 this explanation is true,⁶ it is not a legal defense to making a contribution in the name of another.

3 The Act provides for no exceptions to the prohibitions on contributions made in the name
4 of another. *See* 2 U.S.C. § 441(f). In fact, the regulations specify that an example of making a
5 contribution in the name of another includes making a monetary contribution and attributing as
6 the source of the money another person when in fact the contributor is the true source. *See*
7 11 C.F.R. § 110.4(b)(2)(ii). That is exactly what happened here: Tab Turner, using his credit
8 card, made a contribution to the Edwards Committee, but the source of the funds was attributed
9 to Neal and Elizabeth Turner. Accordingly, this fact pattern provides an additional basis to show
10 that Tab Turner knowingly and willfully violated 2 U.S.C. § 441(f) by making an additional
11 contribution in the name of another. Like the reimbursements, Tab's payment of Neal and
12 Elizabeth's contribution demonstrates an intent to circumvent the Act's contribution limits.
13 Even if Tab owed Neal money, Tab knew that the Act limited him to using his personal funds to
14 contribute only \$2,000 to the campaign and yet he offered to pay for Neal and Elizabeth's
15 contribution anyway.

16 As for Neal and Elizabeth Turner, they did sign a donor card that clearly stated that
17 contributions must be made with personal funds. Nonetheless, Neal and Elizabeth Turner played
18 only a limited role in this matter, and the amount of money at issue for their apparent violation—
19 \$2,000—is relatively small. Considering these circumstances, this Office recommends that the

⁶ Although Neal Turner has submitted sworn statements regarding the supposed debt, no supporting documentation exists. The boat in question was bequeathed to Neal by his and Tab's father. Sometime in the fall of 2003, Neal states that he received an unsolicited offer by a passerby to purchase the boat for \$2,600.

Neal informed Tab of the offer, and Tab said he would purchase the boat instead.

Only after the *Washington Post* article appeared, however, did Tab actually take possession of the boat and pay Neal an additional \$600.

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1 Commission take no further action other than to issue an admonishment letter as to Neal and
2 Elizabeth Turner, and close the file as it pertains to them.

3 As for the Edwards Committee, it does not dispute that one person cannot pay for
4 another's contribution. Indeed, Franklin Hall, one of the Edwards Committee employees who
5 staffed the fundraiser, stated that he would have taken action if he had known that Tab paid for
6 another's contribution because "it's blatantly illegal[,] and I knew that[,] and that would not have
7 in any way, shape, or form been acceptable." Likewise, Kinder states that
8 she, too, would not have accepted the contribution from Neal and Elizabeth had she known Tab
9 was paying for it.

10 Instead, the Edwards Committee argues that it did not know that Tab paid for Neal and
11 Elizabeth's contribution. Kinder has stated under oath that she used Tab's credit card only to
12 complete Tab's donor card. Although Brenda Gwin states that Kinder used Tab's credit card to
13 fill out Neal and Elizabeth's donor card, it is possible that Gwin mistakenly believed that Kinder
14 was filling out Neal and Elizabeth's card when Kinder was in fact filling out Tab's card.

15 Accordingly, there is insufficient evidence to conclude that the Edwards Committee knowingly
16 and willfully accepted a contribution made in the name of another. Nonetheless, the Act's
17 prohibition on "knowingly" accepting prohibited contributions does not require a showing that a
18 committee accepted the contribution with knowledge of a violation of law; instead, it merely
19 requires a party's knowledge of the facts rendering its conduct unlawful. *See FEC v. Dramesi*,
20 640 F. Supp. 985, 987 (D.N.J. 1986); *accord FEC v. Friends of Jane Harman*, 59 F. Supp.2d
21 1046, 1056 n.11 (C.D.Cal. 1999).

22 Here, the Edwards Committee had sufficient notice of the facts surrounding the
23 contribution to have knowingly accepted a contribution made in the name of another. 2 U.S.C.

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§ 441(f). Most importantly, the donor card for Neal and Elizabeth listed "C. Turner" as the name on the credit card used to pay for the contribution, which should have put the Edwards Committee on notice that Neal and Elizabeth Turner were not the source of the funds. (The "C" apparently refers to Tab's given first name, Clyde.) In addition, the credit card number on Neal and Elizabeth's donor card is identical to that on Tab's donor card, submitted the same night, which is yet another red flag that the Edwards Committee should have noticed.

C. The Law Firm's In-Kind Contributions to the Edwards Committee

In addition to making contributions made in the name of another, Tab Turner authorized his law firm to make in-kind contributions to the Edwards Committee. As a corporate entity, the firm was prohibited from making any contributions or expenditures in connection with a federal election. *See* 2 U.S.C. § 441b. Similarly, as an officer of the corporation, Turner was prohibited from consenting to such contributions or expenditures. *See id.* The Edwards Committee was likewise prohibited from accepting corporate contributions. *See id.* Here, the prohibited contributions fall into two categories: first, the firm's general assistance to the Edwards Committee in planning the fundraising events and collecting contributions; and second, the firm's payment of certain hotel and car rental expenses for Edwards Committee employees. Each of these categories is discussed below.

1. *General In-Kind Assistance*

Corporations such as Turner & Associates are prohibited from facilitating the making of contributions, including using their resources or facilities to engage in fundraising activities in connection with any federal election. *See* 11 C.F.R. § 114.2(f)(1). In fact, the Commission's regulations on corporate facilitation prohibit precisely the activity that occurred in this matter.

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1 For example, the regulations define facilitation to include situations when officials of a
2 corporation direct subordinates "to plan, organize or carry out the fundraising project as part of
3 their work responsibilities using corporate ... resources." 11 C.F.R. § 114.2(f)(2)(i)(A). Here,
4 Turner indeed directed his subordinates—namely Brenda Gwin—to organize and administer the
5 fundraising events for the Edwards Committee. Thus, Turner & Associates not only facilitated
6 contributions, but it made in-kind contribution to the Edwards Committee by providing it with
7 "something of value." 2 U.S.C. §§ 441(8)(A)(i) and 441(b).

8 The investigation has shown that from February through April 2003, Brenda Gwin, acting
9 on Turner's instructions, served as a *de facto* campaign employee, with her salary being paid by
10 Turner & Associates. Although the time Gwin spent assisting the campaign varied from week to
11 week, she provided a substantial amount of assistance to the campaign over that period, at one
12 point spending 50 hours in one week on fundraising activities. Jennifer Kinder
13 described Gwin's efforts as "instrumental" in planning the fundraising events.

14 According to Kinder, Gwin's role was "very, very hands on," from making phone
15 calls, ensuring that people received invitations, and finding out how much people would
16 contribute. Kinder spoke with Gwin at least once a day during the two
17 weeks preceding the events and at least twice a day during the week of the events.

18 Indeed, this Office has obtained dozens of e-mails between Gwin and the Edwards
19 Committee, which further demonstrate the extensive nature of her services to the committee.

20 Based on Gwin's statements and e-mails, this Office estimates that she spent from 117 to
21 204 hours providing services to the campaign. Gwin performed these services as part of her
22 official job duties for the firm. In addition, she did not make up the time spent
23 providing services to the campaign, she did not use vacation time to do so, and she was paid by

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1 the firm on a salaried basis. *See* 11 C.F.R. § 100.7(a)(3). Accordingly, because Turner &
2 Associates paid “compensation for the personal services of another person which are rendered to
3 a political committee without charge for any purpose,” her services constitute a contribution.
4 2 U.S.C. § 431(8)(A)(ii). Based Gwin’s salary, the value of her services would range from
5 \$2,069.73 to \$3,608.76.

6 In response, the Edwards Committee asserts that it did not direct firm employees to assist
7 with fundraising and “assumed” that their participation was in accordance with the law.
8 (Edwards RTB Response at 2). Yet the Edwards Committee was well aware that Turner was
9 using his law firm to plan and administer the event. Campaign staffers regularly called and e-
10 mailed the firm, and they even asked the firm to fax out over 300 invitations when the
11 campaign’s fax machine broke down. In addition, when the law firm received contributions for
12 the Edwards Committee, Brenda Gwin would forward them to the campaign along with a cover
13 letter on firm stationery. At least \$19,250 in contributions in this matter were collected by firm
14 employees and passed on to the Edwards Committee. These actions violate the Act because
15 corporations cannot serve as a conduit for contributions to candidates. *See* 11 C.F.R.
16 § 110.6(b)(2). Moreover, the facilitation regulations explicitly prohibit corporations from using
17 its resources to collect and forwarded contributions. *See* 11 C.F.R. § 114.2(f)(2)(ii).

18 Because Turner & Associates used its corporate resources to plan and administer the
19 fundraising events, and because the firm likewise served as a conduit for contributions, it made
20 prohibited corporate contributions, which the Edwards Committee knowingly accepted. *See*
21 2 U.S.C. § 441b. The exact value of the facilitated contributions, however, cannot be determined
22 with certainty. Although the Edwards Committee credits Turner for raising \$73,300, not all of
23 those funds were facilitated by the law firm or passed through the firm. Some contributions, for

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example, were raised by other attorneys who co-hosted the fundraising events with Turner and some contributions were solicited by the Edwards Committee itself.

2. *Hotel and Car Rental Payments*

In addition to facilitating contributions and providing personal services to the Edwards Committee, Turner & Associates also directly paid \$2,357.88 for hotel and car expenses for employees of the Edwards Committee who traveled to Little Rock for the fundraising events.

The Edwards Committee did not reimburse these expenses until nearly five months later, claiming that it did not realize at the time of the events that Turner paid for the expenses. In addition, the Edwards Committee argues that no violation occurred because the law firm owed the Edwards Committee over \$3,000, representing an overpayment by the Edwards Committee for use of Turner's private jet.

Even if Turner & Associates owed money to the Edwards Committee at the time, the law firm could not satisfy that debt by making otherwise prohibited in-kind contributions. Here, before the fundraising events took place, Tab Turner e-mailed the Edwards Committee to let the campaign staffers know that he had reserved hotel rooms for them. The Edwards Committee thus had sufficient notice that Turner and his firm were paying for hotel and car rental expenses. The Committee could have taken action to ensure that it was billed for the services, but it did not.

1 V. CONCILIATION AND CIVIL PENALTIES

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PAGES 25-27 HAVE BEEN REMOVED

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VI. RECOMMENDATIONS

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3. Admonish Brenda Gwin, Michelle Abu-Halimeh, Amy Parker, Diana Harcourt, and Jennifer Keylon, take no further action as to them, and close the file as it pertains to them;

4. Admonish Neal and Elizabeth Turner, take no further action as to them, and close the file as it pertains to them;

Lawrence H. Norton
General Counsel

Date

11/18/05

BY:

Rhonda J. Vosdingh

Associate General Counsel for Enforcement

Mark D. Shonkwiler

Assistant General Counsel

Brant S. Levine

Attorney

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